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12 *Attorneys for Defendants*
13 *James Cox, James Dzurenda,*
14 *Rashonda Smith, Jo Gentry,*
15 *and Brian Williams*

16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 LAUSTEVEION JOHNSON,
19 Plaintiff,

20 v.

21 RASHONDA SMITH, *et al.*,
22 Defendants.

23 Case No. 2:17-cv-00156-GMN-DJA

24 **DEFENDANTS' MOTION FOR AN
25 EXTENSION OF TIME TO FILE AN
OPPOSITION TO PLAINTIFF'S MOTION
FOR SANCTIONS
(ECF NO. 84)
(FIRST REQUEST)**

26 Defendants James Cox, James Dzurenda, Rashonda Smith, Jo Gentry, and Brian
27 Williams, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Katlyn M.
28 Brady, Senior Deputy Attorney General, request this Court grant Defendants a short
extension to file an opposition to Plaintiff's motion for sanctions. ECF No. 84.

29 **MEMORANDUM OF POINTS AND AUTHORITIES**

30 **I. INTRODUCTION**

31 Defendants respectfully request this Court grant a 12-day extension of time to
32 oppose Plaintiff's motion for sanctions. Despite diligently working on this matter,
33 Defendants have been unable to complete the opposition. Specifically, counsel has been

1 required to complete a dispositive motion in another matter and only recently received an
 2 order requiring the Office of the Attorney General (OAG) to enter a special appearance in
 3 another matter to oppose a preliminary injunction on an emergency basis. As a result,
 4 counsel has been unable to complete the opposition. Accordingly, Defendants respectfully
 5 request this Court extend the deadline to respond from December 17, 2020, to
 6 December 29, 2020, as this will ensure that the opposition is completed in light of the
 7 upcoming holiday.

8 **II. BACKGROUND AND RELEVANT PROCEDURAL HISTORY**

9 On November 25, 2020, this Court entered an order granting Defendants' motion for
 10 summary judgment in part and granting Plaintiff's partial motion for summary judgment
 11 in part. ECF No. 82. This order disposed of all claims in this matter. *See generally id.*

12 Thus, the only pending motions in this matter are the parties' cross motions for
 13 sanctions. ECF Nos 63 and 68. The motions for sanctions address Plaintiff's actions
 14 regarding payment of the filing fees, and statements made regarding whether NDOC stole
 15 money from Plaintiff or whether Plaintiff made a false statement. *See id.*

16 On December 3, 2020, Plaintiff filed a second motion for sanctions against defense
 17 counsel, generally complaining about actions taken in other cases. ECF No. 84. After
 18 receiving this motion, counsel was prevented from beginning an initial draft as the OAG's
 19 computer programs and electronic storage system were undergoing an update, rendering
 20 them unavailable for approximately two days, with accompanying nightly shutdowns.
 21 Declaration of Counsel attached as Exhibit A.

22 Once access was restored, counsel began the initial draft of the opposition. *Id.*
 23 However, counsel has been unable to complete this draft for several reasons. Specifically,
 24 counsel was recently appointed to a senior attorney position and has assumed a supervisory
 25 role that requires significant time and attention. *Id.* This has included supervising other
 26 attorneys and revising the OAG's training program. *Id.* Further, the OAG's office is part of
 27 Governor Sisolak's Stay at Home Nevada 2.0 which has caused counsel to transition into
 28 working from home the majority of the time.

1 Further, counsel has been required to complete a dispositive motion in an unrelated
 2 matter, which has required significant time and attention. *Id.*

3 Finally, on December 14, 2020, at approximately 8:34 p.m., the OAG received an
 4 order from the USDC requiring the OAG to make a special appearance and respond to a
 5 motion for a preliminary injunction. *Id.* The Court ordered the OAG to respond by
 6 December 18, 2020, and set a hearing on the matter for December 22, 2020. *Id.* This has
 7 essentially required the Public Safety Division to build a complete case file within 24 hours
 8 and create the accompanying declarations and authentication records.

9 This response has required significant time and attention from not only counsel, but
 10 several of the attorneys in the Public Safety Division. *Id.* Counsel has been required to
 11 assist with obtaining the necessary documentation, reviewing and contributing to the
 12 written opposition, and preparing the accompanying declarations. *Id.* Thus, counsel does
 13 not anticipate being able to complete the initial draft before today's deadline.

14 **III. LEGAL STANDARD**

15 Federal Rule of Civil Procedure 6(b)(1)¹ governs extensions of time and provides as
 16 follows:

17 When an act may or must be done within a specified time, the
 18 court may, for good cause, extend the time: (A) with or without
 19 motion or notice if the court acts, or if a request is made, before
 20 the original time or its extension expires; or (B) on motion made
 after the time has expired if the party failed to act because of
 excusable neglect.

21 **IV. LEGAL ARGUMENT**

22 Defendants respectfully request a twelve-day extension of time to respond to
 23 Plaintiff's motion for sanctions from December 17, 2020, until December 29, 2020. As all
 24 the claims in this matter have been disposed of, there will be no prejudice in granting this
 25 extension.

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28 ¹ As this is not a deadline set in a scheduling order, Defendants do not address Local
 Rule 26-1.

Further, good cause exists to support the extension based on counsel's new supervisory tasks, current caseload, and the unexpected addition of an emergency opposition to a preliminary injunction motion. Counsel requests an extension to December 29, 2020, because it ensures there is no disruption from the upcoming holiday, and counsel has confirmed she has no other deadlines or meeting that day. Thus, counsel is confident that she will complete the motion on or before the 29th.

V. CONCLUSION

This Court should extend the responsive deadline from December 17, 2020, to December 29, 2020. Counsel had expected to complete the response this week, but was prevented from doing so by the emergency opposition ordered on Monday.

DATED this 17th day of December, 2020.

AARON D. FORD
Attorney General

By: /s/ Katlyn M. Brady
KATLYN M. BRADY (Bar No. 14173)
Senior Deputy Attorney General

Attorneys for Defendants

For good cause appearing therein, IT IS SO ORDERED.

DATED: December 18, 2020



CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on December 17, 2020, I electronically filed the foregoing **DEFENDANTS' MOTION FOR AN EXTENSION OF TIME TO FILE AN OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS (ECF NO. 84) (FIRST REQUEST)** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by emailing a copy at Las Vegas, Nevada, addressed to the following:

Lausteveion Johnson, #82138
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, Nevada 89070
Email: sdeclawlibrary@doc.nv.gov
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General

EXHIBIT A

Declaration of Counsel

EXHIBIT A

1 AARON D. FORD
2 Attorney General
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16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 LAUSTEVEION JOHNSON,

19 Case No. 2:17-cv-00156-GMN-DJA

20 Plaintiff,

21 v.

22 **DECLARATION OF COUNSEL**

23 RASHONDA SMITH, *et al.*,

24 Defendants.

25
26 I, Katlyn M. Brady, hereby attest that the following statements to the best of my
knowledge are true and correct.

27 1. I am employed as a Senior Deputy Attorney General in the Office of the
28 Nevada Attorney General (OAG). I am employed in the Public Safety Division.

1. I represent the Defendants in the matter of *Johnson v. Smith*, case no. 2:17-
cv-00156-GMN-DJA. I additionally represent other Defendants in several matters
involving Plaintiff.

3. Plaintiff filed the motion for sanctions on December 3, 2020; however, on that
date the OAG's computer systems were undergoing significant upgrades and I was unable

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1 to review or begin a response. Issues relating to the upgrade carried over to December 4,
2 2020, interrupting counsel's ability to access files and drafts.

3 4. I began a draft opposition in this matter, but was unable to complete it after
4 being assigned a motion to dismiss in another matter. This motion has taken up a
5 significant amount of time, despite working on it for several days.¹

6 5. Further, I was recently promoted to the Senior Deputy Attorney General
7 position. As part of this position, I have assumed numerous supervisory assignments,
8 including revamping the training program for new attorneys in the Public Safety Division.
9 This has taken significantly more time than I had expected as I continue to learn my new
10 role.

11 6. Despite working overtime, and on weekends, I was unable to complete the
12 draft response to Plaintiff's motion for sanctions.

13 7. I had anticipated completing the draft early this week, but unexpectedly
14 received an order requiring the OAG to respond to an emergency motion by Friday,
15 November 18th.² I have been required to communicate with the impacted institution, assist
16 in obtaining information for the opposition, and contributing to the drafting of the
17 opposition and the necessary declarations.

18 8. Working on the emergency opposition has prevented me from completing my
19 final draft in this matter.

20 9. I have reviewed my calendar, including all upcoming deadlines, and confirmed
21 that there are no deadlines on December 29, 2020. Thus, I am confident I will complete the
22 response on or prior to December 29, 2020.

23 10. I certify that I bring this motion in good faith and not for any improper
24 purpose or unnecessary delay.

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26 ///

27 1 Case number 2:20-cv-01401-GMN-NJK.
28 2 Case number 2:20-cv-01768-RFB-EJY

1 Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of
2 perjury that the foregoing is true and correct to the best of my knowledge and belief.

3 Executed this 17th day of December, 2020.

4 AARON D. FORD
5 Attorney General

6 By: /s/ Katlyn M. Brady
7 KATLYN M. BRADY (Bar No. 14173)
Senior Deputy Attorney General

8 *Attorneys for Defendants*

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